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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,550	01/25/2002	Richard E. Michaelson	29757/P-570	8841

4743 7590 02/17/2005

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EXAMINER

JONES, SCOTT E

ART UNIT PAPER NUMBER

3713

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,550

Applicant(s)

MICHAELSON, RICHARD E.

Examiner

Scott E. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,14-21,34-39 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,14-21,34-39 and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12142004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on December 14, 2004 in which applicant submits a request for continued examination, cancels claims 4-13, 22-33, and 40, amends and submits a replacement drawing sheet for figure 3, submits an information disclosure statement, and responds to the claim rejections. Claims 1-3, 14-21, 34-39, and 41 are pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 14, 2004 has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-3, 14-21, 34-39, and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Independent claims 1, 14, 17, 34, 39, and 41 substantially recite "deducting a fee at intervals from the value total...independent of input from a player;". Although the specification, as

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originally filed, provides support for “deducting a fee at intervals from the value total independent of the play of said game...”, the specification as originally filed, does not support the limitation “deducting a fee at intervals from the value total...independent of input from a player;” as recited in each of the Independent claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 14-20, 34-37, 39 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (U.S. 6,077,163).

Walker et al. discloses a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price. The flat rate play session spans multiple plays on the gaming device over a pre-established duration. The gaming device identifies price parameters and determines the flat rate price of playing the gaming device based on those price parameters. In one embodiment, identifying price parameters includes receiving player selected price parameters. In another embodiment, price parameters further incorporate operator selected price parameters. Should the player decide to pay the flat rate price, the player simply deposits the necessary funds into the gaming device or makes a credit account available for the gaming device to debit. Once the player initiates play, the gaming device tracks the duration remaining in the flat rate play session and stops the play when the given period has elapsed, or a player terminates the flat rate session early (by pressing a cashout button). During the play, payouts are

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made either directly to the player in the form of coins or indirectly in the form of credits to the player's credit account. Walker et al. additionally discloses:

Regarding Claims 1, 14, 17, 34, 39, and 41:

- receiving a value amount (724) to initially define a value total (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 2, lines 1-5, and column 3, lines 25-30);
- causing a video image representing a game to be generated, said video image representing one of the following games: video poker, video blackjack, video slots, video keno and video bingo, said video image comprising an image of at least five playing cards if said game comprises video poker, said video image comprising an image of a plurality of simulated slot machine reels if said game comprises video slots, said video image comprising an image of a plurality of playing cards if said game comprises video blackjack, said video image comprising an image of a plurality of keno numbers if said game comprises video keno, and said video image comprising an image of a bingo grid if said game comprises video bingo (Column 3, lines 1-5);
- deducting a fee at intervals from the value total independent of play of said game represented by said video image and independent of input from a player (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 1, lines 62-65, column 2, lines 1-5, column 3, lines 25-30, column 11, lines 51-57, and claims 5, 36, 46, and 59); A flat rate fee is deducted at each player session.
- determining based on the fee a value payout associated with an outcome of said game represented by said video image (Figs. 6, 8A-B, and column 6, line 56-column 12,

line 21); Based on the flat rate fee that is calculated the number of coins bet per play a pay combination jackpot is established as shown in figure 6 for example.

- adding the value payout to the value total (Fig. 13, Column 3, lines 25-30, and column 4, lines 27-35).

Regarding Claims 2, 15, and 35:

- deducting a fixed fee periodically from the value total independent of play of said game represented by said video image (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 2, lines 1-5, and column 3, lines 25-30); A flat rate fee is deducted at each player session.

Regarding Claims 3, 16, 19, and 36:

- interrupting for a period of time the deducting of a fee at intervals from the value total independent of play of said game represented by said video image (Column 4, lines 26-34). When a player cashes out early or transfers to another gaming machine the deducting of fees is interrupted.

Regarding Claims 20 and 37:

- said gaming apparatuses being interconnected to form a network of gaming apparatuses (Fig. 1, 3, and column 3, line 40-column 4, line 4).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 21 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163).

Walker et al. discloses to one having ordinary skill in the art that as discussed above regarding claims 1-3, 14-20, 34-37, 39 and 41. Although Walker et al. discloses a network, Walker et al. seems to lack explicitly disclosing:

Regarding Claims 21 and 38:

- said gaming apparatuses are interconnected via the Internet.

However, to one having ordinary skill in the art at the time of Applicant's invention, operating a gaming device over a network, whether the network is a LAN, WAN, or the Internet, was notoriously well known. One would be motivated to operate the gaming machines over a network such that a casino management system could monitor all monetary exchanges between the gaming machines and players.

Response to Arguments

9. Applicant's arguments filed December 14, 2004 have been fully considered but they are not persuasive with respect to the rejection to claims 1-3, 14-20, 34-37, 39 and 41 under 35 U.S.C. 102(b) as being anticipated by Walker et al. (U.S. 6,077,163) and the rejection to claims 21 and 38 under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163).

Applicant alleges Walker et al. does not disclose, teach, or suggest deducting a fee at intervals from the value total independent of play of said game represented by said video image and independent of input from a player. Even though Walker et al. discloses, in another embodiment, price parameters are operator selected price parameters, rather than, player selected price parameters and therefore does not require player input (Abstract, Column 1, lines 62-65,

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Column 11, lines 51-57, and Claims 5, 36, 46, and 59), Applicant alleges since Walker et al. “consistently involves player input” that Walker’s alternative embodiment does not anticipate this feature. The examiner respectfully disagrees. Furthermore, after a closer reading of the specification, as originally filed, the specification does not support the limitation “deducting a fee at intervals from the value total...independent of input from a player;” as recited in each of the Independent claims.

10. Applicant’s arguments, see pages 10 and the replacement drawing sheet, filed December 14, 2004, with respect to the objection to figure 3 has been fully considered and is persuasive. The objection to figure 3 has been withdrawn.

11. The rejections to claims 7-10 and 25-28 under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Colin et al. (U.S. 6,346,043), and the rejection to claims 11 and 29 under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Colin et al. (U.S. 6,346,043) and further in view of Bennett (U.S. 6,102,798) are moot in view of the cancellation of the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones
Examiner
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A handwritten signature in black ink, appearing to read "Scott E. Jones", written in a cursive style.

sej